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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ASIA: Situation of human rights defenders in China, Thailand, and Bangladesh

The Asian Legal Resource Centre wishes to direct the attention of the Human Rights Council to the critical situation of human rights defenders in China, Bangladesh, and Thailand. While this Council is holding its 31st Regular Session, human rights defenders in these three countries are facing dire threats to their person and profession.

Members of the Council, at least 290 lawyers are currently being held in detention in China, for nothing more than undertaking their professional responsibilities. Many have had their licences revoked. Almost all of them have been detained in secret detention centres for periods ranging from three to six months before the government formally arrested them. Thirty-eight of the lawyers arrested are charged with serious offences like inciting subversion of State power under Article 105 (2) of the 1997 Criminal Code of the People's Republic of China. These fabricated charges lodged against the lawyers carry a punishment of five years' imprisonment, and it is highly likely that the lawyers will be convicted and punished.

China does not have a mature or refined justice system. What is portrayed as the justice process in China is a military trial. It is presented as a civilian justice process that begins and ends with the questioning of the accused. The Procuratorate wields more power than a judge. In such an environment, where independent judges and lawyers are absent, the State of China holds the ultimate power to decide who must and must not be convicted. In China, this justice process is used to silence those whom the government perceives as opposition to the absolute power of the State. The first on the list are independent lawyers and various other civil society actors.

The National Council for Peace and Order, a cover created by the Thai military after the 12th military coup in Thailand, shares characteristics with its Chinese counterpart. The coup in Thailand witnessed to arbitrary arrests and detention of lawyers and human rights defenders. This continues up to the present time. The clampdown on free speech in Thailand has been harsh. For the first time in Thailand's history there is regular disruption of academic freedom. As a result, teachers in the universities are worried about what they exchange with students in classrooms.

Human rights defenders and lawyers in Thailand undertake their work under extremely hazardous conditions. Many are prevented from traveling outside the country, having had their passports seized by the government. Like their Chinese counterparts, human rights defenders in Thailand do not have any domestic protection framework. The Judiciary in Thailand is neither independent nor mature. The ALRC is of the opinion that had the Thai Judiciary been developed, the coup in Thailand would not have been possible.

Bangladesh, another member of the Human Rights Council, is today a state where human rights defenders face organised, State-sponsored persecution. For the past year, not one independently operated human rights organisation in Bangladesh has been spared government persecution. Today, conditions are such that independent journalists in Bangladesh face arrest, imprisonment, or death, if they dare criticise the government.

The Judiciary in Bangladesh is perhaps the best ally of the government in suppressing free speech and in repressing human rights defenders in the country. Both the Judiciary of Bangladesh and the International Crimes Tribunal (Bangladesh) has spared no opportunity to initiate contempt of court proceedings against those who have criticised some of the proceedings of the court.

It is widely believed in Bangladesh that any technology transfer by member states like the United Kingdom and Northern Ireland is used to monitor communications against human rights defenders. This breaches guarantees of privacy and professional privileges relating to communications.

Government intentionally misinterprets information gathered through the use of technology and successfully misuses the Judiciary in Bangladesh to detain human rights defenders and journalists on fabricated charges. Widespread, deep corruption and political servitude of judges are the two defining characteristics of the Bangladesh Judiciary.

Threats to human rights defenders in China, Thailand, and Bangladesh are rarely discussed in international forums like the UN. And, this is something that is widely discussed in the Asian civil society – that some member states of the

Human Rights Council have played a negative role. They have largely remained silent about reprisals against human rights defenders and lawyers in the above three countries.

Unlike some other member states of the Council, China, Thailand, or Bangladesh do not have armed conflict, and thereby maintain full administrative control, and should therefore be held fully responsible.

The ALRC would like to know whether the situation of human rights defenders in China, Thailand and Bangladesh would be taken up during the current session of the Council? Thailand, in particular, calls for immediate attention, as the UN's regional headquarters is based in Bangkok. Failure to address this, while continuing to maintain its official offices in Bangkok, is something that challenges the very legitimacy of the UN.

The ALRC and its partners in the region would like to know two things: what affirmative action has been initiated by the Council to protect human rights defenders in Thailand and whether member states of the Council would consider firm action against China, Bangladesh, and Thailand? Would pressure on these countries help to end the repression against human rights defenders in these countries?

The ALRC would like to call upon the UN Special Rapporteur on the situation of human rights defenders. Can he update the Council about specific actions the Rapporteur's office has initiated to protect human rights defenders in China, Thailand, and Bangladesh, i.e. something beyond requesting the three countries to adhere to universal human rights norms and their treaty obligations?